

EXHIBIT 1

INTRODUCTION

Respondent 95/5, Put the Money Where the Kids Are/Yes on Prop #223 (hereinafter the “Committee”) was a committee, primarily formed for the purpose of supporting Proposition 223 in the 1998 Primary Election. Respondent Committee was formed in June of 1997. At all times relevant to this matter, Respondent Kinde Durkee was the treasurer of Respondent Committee.

Under the authority granted by the Political Reform Act (the “Act”),¹ the Franchise Tax Board (the “FTB”) audited Respondent Committee for the time period January 1, 1997 through June 30, 1998. During the audit period, the Committee received contributions totaling \$972,516, and made expenditures totaling \$992,492. Based on the FTB audit findings, and the Commission’s own investigation, Respondents failed to disclose on their campaign statements required sub-vendor information for \$419,527 in expenditures.

For the purposes of this Stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: Respondents failed to report sub-vendor information for \$269,527 in payments made to Morris & Carrick, Inc., on the pre-election campaign statement for the reporting period March 18, 1998 through May 16, 1998, that was filed on May 22, 1998, in violation of section 84303 of the Government Code.

COUNT 2: Respondents failed to report sub-vendor information for \$150,000 in payments made to Morris & Carrick, Inc., on the semi-annual campaign statement for the reporting period ending on June 30, 1998, that was filed on August 6, 1998, in violation of section 84303 of the Government Code.

RESPONDENTS: 95/5, Put the Money Where the Kids Are/Yes on Prop #223 and Kinde Durkee.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that contributions and expenditures in election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations, section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Section 82013, subdivision (a), defines a “committee” as any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. Section 84211 prescribes that certain information must be disclosed on campaign statements filed by a committee, including information about contributions received, and expenditures made by the committee. For each person to whom an expenditure of \$100 or more has been made during a reporting period, the campaign statement must provide the full name of the payee, his or her street address, the amount of the expenditure, and a brief description of the consideration for which the expenditure was made. (Section 84211, subds. (k)(1)-(4).)

Section 84303 provides that no expenditure shall be made, other than for overhead and normal operating expenses, by an agent or independent contractor, including, but not limited to, an advertising agency, on behalf of, or for the benefit of, any candidate or committee, unless the expenditure is reported by the candidate or committee as if the expenditure was made directly by the candidate or committee. This is commonly referred to as the required disclosure of “sub-vendor” expenditures.

Requiring committees to report information about sub-vendor expenditures is necessary to prevent campaigns from avoiding disclosure of required information about their expenditures simply by making the expenditures through an agent.

Under section 84100 and regulation 18427, subdivision (a), a committee’s treasurer has the duty to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Pursuant to sections 83116.5 and 91006, the treasurer of a committee may be held jointly and severally liable, along with the committee, for the committee’s reporting violations.

SUMMARY OF THE FACTS

In the campaign statements for Respondent Committee that were filed by Respondents for the 1998 calendar year, Respondents failed to disclose sub-vendor information for payments totaling \$419,527 to Morris and Carrick, Inc., for broadcast advertising, in violation of section 84303.

In the Committee’s pre-election campaign statement for the period March 18, 1998 to May 16, 1998, Respondents reported an expenditure in the amount of \$300,000 to Morris and Carrick, Inc., for broadcast advertising, but reported only one sub-vendor expenditure of \$30,473. Thus, Respondents failed to disclose identifying sub-vendor information and/or an itemization of expenditures for the \$269,527 balance of that payment, in violation of section 84303.

In the Committee’s semi-annual statement for the period ending on June 30, 1998, Respondents reported an expenditure in the amount of \$150,000 to Morris and Carrick, Inc., for broadcast advertising. Respondents failed to disclose any identifying sub-vendor information and/or an itemization of expenditures for the payment, in violation of section 84303.

CONCLUSION

This matter consists of two counts, which carry a maximum possible administrative penalty of Four Thousand Dollars (\$4,000). There were no factors mitigating the violations. Accordingly, imposition of an administrative penalty of Four Thousand Dollars (\$4,000) is justified.